

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:)	
)	
Russell Alan Foltz-Smith)	
)	Examiner: Nathan C. Uber
Application No: 10/797,464)	
)	Art Unit: 3622
Filed: March 10, 2004)	
)	Confirmation No: 4539
For: SYSTEM FOR ORGANIZING)	
ADVERTISEMENTS ON A WEB PAGE)	
AND RELATED METHOD)	
<hr/>		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Affidavit

Dear Sirs:

I, Russell Alan Foltz-Smith, having personal knowledge of the facts set forth herein, declare as follows:

1. I am a co-inventor of above-identified patent application entitled "SYSTEM FOR ORGANIZING ADVERTISEMENTS ON A WEB PAGE AND RELATED METHOD."
2. I have a BA in Mathematics from the University of Chicago. Over a ten year period, I have launched more than 75 web products, some having gone onto large market valuations. My experience includes key leadership roles with Business.com, Citysearch, AlphaMediaGroup, eHarmony, Hachette Filipacci, PureVideo and have held strategic engagements with Yahoo!, SupplyFrame, Reunion.com/MyLife, American Greetings and Wolfram Research. I would therefore submit that I am someone of extraordinary skill in the art of web product design.

3. The Examiner has rejected claim 22-63 under 35 U.S.C. §103(a) as being unpatentable over Cheung in view of Leishman. The Examiner states that:

- (i) Cheung discloses all the limitations of claim 22 except for geographic data of a location;
- (ii) Leishman discloses geographic data of a location; and
- (iii) *"It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the additional data of the Leishman invention with the Cheung invention since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable."*

4. The Examiner's assertion in (i) and (ii) was known to me at the time of the present invention. In fact, the present patent application in paragraph 11 states as follows:

"When deciding which ads to display, the search provider can use a metric called the click-through rate ("CTR"), which is the number of clicks on links included in an ad divided by the number of times the ad was displayed for user consideration. Currently, search providers do not attempt to display ads on their web pages that are near a user's location, even though, the CTR for an ad would likely be higher for ads where the business has a location near the user."

5. Some of the code for integrating a billing system, category-based and geo-location-based searching system is included as Appendix A to the present patent application. As can be seen, especially on pages 25 and 26 of the present patent application, such an

integration process is not a trivial matter. The development of such a system was undertaken by a team of six software engineers over a period of six months. The invention and development have thus required a considerable investment in time, money and effort by myself and many other highly skilled engineers and the Assignee company for the present patent application.

6. As further evidence of the non-trivial nature of the present invention, the Examiner is requested to take note of the fact that it has taken other companies much longer to develop such a system. According to my knowledge, no company was able to develop a local targeted pay per click advertisement system at least through the end of 2004. For the examiner's benefit, developments in this area through 2004 by major search engine companies Google and Yahoo are documented in Appendices A, B, C and D to this affidavit.

7. I therefore believe that a system such as claimed in the independent claims 22, 34 and 49 would not have been obvious to one skilled in the art having knowledge of Cheung and Leishman at the time that the invention was made.

8. New dependent claims 64 to 66 have been added by amendment and relate in essence to a pacing function that calculates a billing frequency based on the cap amount and a future date or time. To my knowledge, a pacing factor is still not broadly used within the industry. A search engine will typically run an account out as fast as possible because a) the math for pacing is not trivial, b) they may not have insight into pacing algorithms for local business, and c) there may not be any desire to pace. For these additional reasons, I also believe that these claims are not obvious over the combination of references.

9. For all the reasons above and given the relative large period of time that has passed since the invention was made, I believe that the Examiner is relying on impermissible hindsight by saying that one of ordinary skill in the art would consider the invention obvious at the time that the invention was made.

10. I, accordingly, respectfully submit that existing claims 22-63 and new claims 64-66 are patentable in view of Cheung and Leishman.

I declare under penalty of perjury under the laws of the United States that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that all statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any Patent issuing thereof.

Executed this 27 day of May, 2009, at Venice,
California.



Russell Alan Faltz-Smith

A

March 17, 2004 7:10 AM PST

Google goes local

By [Stefanie Olsen](#)

Staff Writer, CNET News

Internet darling Google is taking search to the streets, helping Web surfers find cafes, parks or even Wi-Fi hot spots in their area.

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On Wednesday, the Web search company unveiled Google Local, which has been tested in the company's research and development lab for the last 8 months. Type a keyword along with an address or city name into the search box at Google.com or at its newly designated site, Local.google.com, to find maps, locally relevant Web sites and listings from businesses in the area.

"A lot of times when people are looking for something, they want to do it on a local level...This is a core search promise," said Marissa Mayer, Google's director of consumer Web products, who helped build the service with a team of engineers from Google's New York office.

Mountain View, Calif.-based Google is giving prominence to local search at a time when it's one of the most hyped areas of development in the industry. Financial analysts and industry executives say geographically targeted search listings are prime real estate for local advertising, an estimated \$12 billion annual business in the United States. In 2004, less than \$50 million of that market will go toward ads related to local Net searches, but over time, the dollars will find their way to the virtual world, analysts say.

It will be "worth a lot more online. That is, merchants will pay more," said Safa Rushtchy, Piper Jaffray's Internet analyst. "Integration of that with search will make it very convenient for searchers and extremely useful for local merchants."

For now, search engines including Google, Yahoo, Ask Jeeves, MSN and CitySearch are working to perfect local search for consumers.

Google's chief rival, Yahoo, recently improved visitors' chances of finding local restaurants, ATMs, shops and bus routes through its map service. With its new SmartView feature, Yahoo now incorporates points of interests like restaurants into local maps, allowing Web surfers to refine what they're looking for (for example, Italian or Indian food) and see where a particular spot is located in the neighborhood.

Google, which fields about 200 million queries a day, said its local service improves people's access to relevant information, its long-time mission. Using the local service, people will find business addresses, phone numbers and "one-click" driving directions to places of interest.

To deliver the results, Google draws on business listings provided by third-party companies. It also uses technology to collect and analyze data on the physical location of a Web page and then matches that data to specified queries and their designated addresses.

For now, Google will not display local advertisements on the service, but it plans to do so in the future. However, the company currently sells advertisers the ability to target people by region on the main Web site. Google makes money by letting advertisers bid for placement on results pages for related search terms. Ads appear adjacent to or atop search results.

Yahoo! Buzz

B

March 9, 2004 11:47 AM PST

Yahoo puts local content on the map

By Matt Hines

Staff Writer, CNET News

Internet portal Yahoo said Tuesday that it is launching a new service aimed at providing localized content to Web search users via its online map system.

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The SmartView service lets surfers use Yahoo Maps to view information on local points of interest, such as restaurants, hotels, parks, automatic teller machines and post offices. Along with highlighted maps, Yahoo gives details about locations, including addresses and phone numbers, pricing, Web sites and driving directions. Yahoo said it also plans to incorporate a user rating system for hotels listed on the maps.

Representatives at the Sunnyvale, Calif.-based company said businesses and other locations named on its maps would be drawn from Yahoo's "Yellow Pages" section and other areas of the site, such as its travel and leisure listings. Yahoo does not plan to charge companies to be shown on the maps, but the portal does place sponsored links produced via its Overture commercial listings on other parts of the local Web pages.

A quick test of local maps for the Boston area indicated that Yahoo has already added a large number of businesses--including gas stations, banks and hospitals--to its system. If visitors click on a [search tool](#) linked to each listing, SmartView provides general Web results for the highlighted location. While Yahoo representatives declined to speculate what sort of information could be added to the map pages in the future, they indicated that the company has plans to continue to build out the system and provide even more detailed resources.

The move to lure Internet traffic with local results is the latest in a string of maneuvers by Yahoo meant to improve the company's position in the search engine market, where it is looking to compete more closely with segment leader Google. Last week, Yahoo launched its Content Acquisition Program, designed to [index billions of documents](#) contained in public databases commonly inaccessible to search engines--or what's called the invisible, or deep, Web.

Last month, Yahoo [dropped Google](#) as the default search technology provider for its United States-based sites, as the portal continued to increase emphasis on its own capabilities. Some of these features come from an array of recently acquired companies, such as Inktomi and commercial search provider Overture Services. Yahoo also owns AltaVista and the Web search technology of Fast Search and Transfer.

Yahoo's long-term goal is to regain its former distinction as the Web's dominant search engine, a mantle it enjoyed before moving further into content aggregation during the late 1990s. The company is hoping to grow its profits through the commercial search market, which has increasingly accounted for a more significant piece of Yahoo's revenue.

Yahoo! Buzz

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Posted 8/3/2004 3:01 AM

REUTERS

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Yahoo launches new local search engine

LOS ANGELES (Reuters) — Yahoo, seeking to compete for local advertising dollars while at the same time countering a similar push by Google, Monday rolled out a test version of a local search engine that gives users phone numbers, maps, ratings and reviews for a range of services.

Yahoo has set up the new Yahoo Local as a direct competitor to Google's own local search service, one of many new platforms that company has rolled out as its moves toward its highly anticipated initial public offering.

Like Google, Yahoo's aim is to cash in on local advertising, a market worth billions of dollars in revenue and a relatively small Internet presence.

"Local information is kind of Yahoo's heritage and in our blood," Paul Levine, general manager of Yahoo Local, told Reuters. "When an audience starts to look at local information we see an opportunity to really capitalize on those dollars from a local perspective."

Levine pegged online spending as less than one half of one percent of local ad spending overall.

The new Yahoo local engine, which became available late Monday night Pacific Time, prompts users to search for a service, like "restaurants" or "dentists," along with a location, and then returns results like business name, address and phone number.

Users can refine the results by rating, distance from a specific point and other factors. Maps show the location of specific businesses and can be enhanced with the locations of parking lots and ATMs.

For restaurants, the search engine will offer editorial reviews and data like price and atmosphere, as well as an opportunity for users to contribute their own reviews.

Yahoo has partnered with a number of companies for its data, Levine said, in an effort to be comprehensive. Test searches on the engine returned results from major cities as well as

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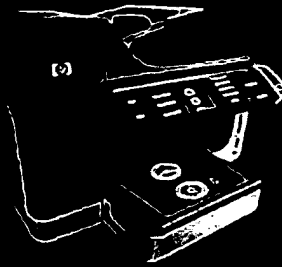
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"People will break it in the early going," Levine said. "It's not perfect but we do think it works really well."

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Google Introduces Local Ad Options

Brian Morrissey, Senior Editor
April 15, 2004

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Google today added new advertiser options to target their paid listings to local customers in a particular city or within a customizable area.

Advertisers in Google's AdWords program now can choose to display their ads only to searchers at a city level or within a radius around their business address. Google already lets U.S. advertisers target ads to 210 market areas. It will now offer targeting to thousands of cities.

Google rolled out the new options in seven international markets: Canada and six European countries. Google did not previously offer targeting in international markets other than at the country level.

With the customized targeting option, advertisers choose the distance around their business to display their ads. The minimum radius is 20 miles. Another option is to set longitude and latitude points.

Locally targeted ads will not have a separate auction from national ads. Both local and national listings will be returned to searchers, based on Google's usual relevancy formula of bid price times click-through rate. Google will show the local-targeted listings on its own site and some partner sites, such as Ask Jeeves, EarthLink and BellSouth. Google search partner AOL will not use the locally targeted ads, a Google spokesman said.

Google also said it soon will begin to display three paid listings on its Google Local search engine. The results will appear at the top of the results page.

Google Local combines directory listings and Web search. The local search engine is available at local.google.com, and searchers are taken to Google Local if they click on a compass icon returned at the top of the results page for local-information-related searches on Google.

Sukhinder Singh, Google's general manager of local search, said advertisers now could run separate creative for different regions. For example, a national pizzeria could offer a coupon as part of its listing's call to action in an underperforming local market.

"Our belief is that opening up more local-targeting options leads to new click opportunities for advertisers," Singh said. "It allows advertisers to step online in a more targeted fashion."

Google and main rival Yahoo have mirrored each other's moves in local search. Last month, Google gave more prominence to its fledgling local search engine, Google Local, just a week after Yahoo released SmartView, a tool on Yahoo Maps that gives users access to local information in 55 categories.

Yahoo unit Overture Services plans shortly to unveil a local advertising option that also will let businesses set a radius for their listings. Overture plans a service for showing basic business information for small advertisers without a Web site.

Singh said Google Local relied on its Web search and directory listings to find those businesses. A Verizon study in late 2002 estimated that 63 percent of small businesses do not have Web sites.

"It gives advertisers a lot more choices and options and will be attractive to current AdWords advertisers, and we'll have to wait and see if it attracts new advertisers," said Greg Sterling, a local search analyst with The Kelsey Group. "It doesn't address the product-simplification issues and the local-sales issues."

Kelsey and other analysts have said the challenges to expanding local search advertising to a significant number of the 23 million U.S. small businesses are to make the bidding process easier for small businesses and find a way to reach them with a local sales force.

The Kelsey Group has estimated that the local search market could reach as high as \$2.5 billion in 2008, depending on how successful Google and Yahoo are in deploying local search opportunities. The researcher thinks that 10 percent of all searches are for local commercial information.

Along with the new targeting options, Singh said Google now would determine a searcher's location based on

both Internet protocol address of the searcher and geographic keywords. This will do away with the need for advertisers to bid on geographically modified keywords.

Yahoo has a leg up on Google by holding the registration information, including location, of 141 million users.

Google uses technology provided by Digital Envoy to determine a Web searcher's location based on IP address. Digital Envoy recently slapped Google with a lawsuit, alleging that it overstepped the bounds of its licensing contract by applying the technology to its advertising program.

Singh said Google was within its licensing rights to use the technology, for which Google pays \$8,000 per month, according to court documents.

Google has experimented with local search since September, when it quietly released Search by Location in its Google Labs section dedicated to developing new search applications. Google Local is still classified as a beta application, like Google News and Froogle, its product search engine.

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